

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

State of Minnesota by its Attorney General, Keith Ellison, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> Fleet Farm LLC, Fleet Farm Group LLC, and Fleet Farm Wholesale Supply Co. LLC, <p style="text-align: center;">Defendants.</p>	Case No.: 0:22-cv-02694-JRT-JFD <p style="text-align: center;">DEFENDANTS’ RESPONSE TO PLAINTIFF’S NOTICE OF SUPPLEMENTAL AUTHORITY</p>
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Defendants Fleet Farm LLC, Fleet Farm Group LLC, and Fleet Farm Wholesale Supply Co. LLC (together, “Fleet Farm”) submit this response to Plaintiff’s Notice of Supplemental Authority. *See* ECF Doc. 34.

On March 23, 2023, the Eighth Circuit issued its decision in *American Petroleum Institute, et al. v. State of Minnesota*, __ F.4th __, 2023 WL 2607545 (8th Cir. Mar. 23, 2023). As demonstrated by the excerpts of the decision quoted in Plaintiff’s Notice, the court’s analysis of *Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing*, 545 U.S. 308 (2005), confirms Plaintiff’s complaint necessarily raises a disputed and substantial question of federal law. *See* ECF Doc. 25 at 7–30. *American Petroleum* explains that, when considering the first prong of the *Grable* test, “[a] federal issue is necessarily raised when it is a *necessary* element of one of the well-pleaded state claims in [a] plaintiff’s complaint.” 2023 WL 2607545, at *4 (cleaned up). It also explains that for removal to be proper under *Grable*, “[a] removing defendant should be able to point to the specific elements of the plaintiff’s state law claims that require proof under

federal law.” *Id.* (cleaned up). Simply put, where “the *merits* of [a plaintiff’s] claims” require a court to “resolve . . . questions governed by federal law,” a federal question is necessarily raised. *Id.*

As Fleet Farm has explained, the substantive allegations against it “are all premised on Fleet Farm’s alleged violations of—or its alleged aiding-and-abetting violations of—purported legal duties arising out of the GCA and its implementing regulations.” ECF Doc. 25 at 12–16. The existence of a duty, and whether such a duty was breached, are elements of Plaintiff’s negligence and related tort claims. Accordingly, Plaintiff’s claims will necessitate analyzing and applying federal law to determine: (1) the scope of Fleet Farm’s duties relating to the commercial sale of firearms; and (2) whether Fleet Farm breached such duties. *See id.* The “*merits* of” Plaintiff’s claims will thus require a court to “resolve . . . questions governed by federal law.” *Am. Petroleum Inst.*, 2023 WL 2607545, at *4.

Dated: March 28, 2023

/s/ Andrew W. Davis

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